

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

PAUL BODDY,

Plaintiff,

v.

DIVERSIFIED UTILITY SERVICES,
LLC

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff Paul Boddy (“Plaintiff”), by and through their undersigned counsel, and files this, their Complaint for Damages, and shows the Court as follows:

NATURE OF COMPLAINT

1.

Plaintiff brings this action for damages and reasonable attorney fees against Defendant Diversified Utility Services, LLC for violations of his rights under 42 U.S.C. § 1981.

JURISDICTION AND VENUE

2.

Plaintiff invokes the jurisdiction of this court pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

3.

The unlawful actions alleged in this Complaint were committed within this district. In accordance with 28 U.S.C. § 1391, venue is appropriate in this Court.

PARTIES

4.

Plaintiff is an African-American citizen of the United States and is subject to the jurisdiction of this Court.

5.

At all times relevant, Defendant was qualified and licensed to do business in Georgia, and at all times material hereto has conducted business within this District.

6.

Defendant may be served with process by delivering a copy of the summons and complaint to its Registered Agent, Pam Blackerby, at 5371 Cook Road, Morrow, GA, 30260.

FACTUAL ALLEGATIONS

7.

Plaintiff began working for Defendant as a foreman on or about September 14, 2020.

8.

Plaintiff began experiencing racial incidents with a Latino foreman, Rafel Ravelo (“Ravelo”).

9.

For example, on or about January 24, 2023, Ravelo texted Plaintiff and other foremen a picture of a dog dressed as a construction worker captioned “RAPHAEL’S NEW PAVING CREW” and a picture of a dog at a construction site with the caption “DIVERSIFIED NOW HIRING DOGS FULL TIME.”

10.

Ravelo was referring to the black workers on his paving crew.

11.

On or about January 25, 2023, Plaintiff reported Mr. Ravelo’s text messages to Donnie Pensinger, Manager, Jeff David, Head of Safety, and David Gill, HR Manager.

12.

On or about January 26, 2023, Ravelo searched Plaintiff’s work truck.

13.

Prior to that, Plaintiff's work truck had never been searched.

14.

On or about January 27, 2023, Plaintiff was demoted from Foreman to Skilled Finisher.

15.

On or about January 31, 2023, Defendant terminated Plaintiff for "poor job performance and failure to follow instructions."

16.

Although Defendants purport to provide a legitimate non-discriminatory reason for the adverse actions, this reason is a pre-text. Plaintiff was demoted and terminated in retaliation for engaging in protected activity. As a result of Defendant's unlawful action, Plaintiff has suffered damages, including lost wages and emotional distress.

COUNTS

COUNT I: VIOLATION OF 42 U.S.C. § 1981

17.

Plaintiff re-alleges paragraphs 7-16 as if set forth fully herein.

18.

Plaintiff had an employment agreement with Defendant within the meaning

of 42 U.S.C. § 1981, under which, inter alia, Plaintiff worked for Defendant, and Defendant compensated Plaintiff for work.

19.

Plaintiff performed his contractual obligations.

20.

42 U.S.C. § 1981 prohibits Defendant from retaliating against Plaintiff for engaging in protected activity with regard to the making and enforcing of his employment with Defendant.

21.

Defendant violated Plaintiff's rights under 42 U.S.C. § 1981.

22.

Plaintiff was demoted and terminated because of his of racial discrimination and harassment.

23.

Defendant has willfully and wantonly disregarded Plaintiff's rights, and Defendant's retaliation against Plaintiff was undertaken in bad faith.

24.

As a direct and proximate result of Defendant's violations of 42 U.S.C. § 1981, Plaintiff has been made the victim of acts that have adversely affected his psychological and physical well-being.

25.

Accordingly, Defendant is liable for the damages Plaintiff has sustained as a result of Defendant's unlawful retaliation.

26.

Defendant acted with malice and in reckless indifference to Plaintiff's federally protected rights. Plaintiff is entitled to punitive damages.

27.

Defendant intentionally retaliated against Plaintiff on the basis of protected activity in violation of 42 U.S.C. § 1981.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- (A) Grant Plaintiff a trial by jury as to all triable issues of fact;
- (B) Grant Plaintiff damages for lost wages and benefits and prejudgment interest thereon;
- (C) Grant Plaintiff compensatory and punitive damages, including damages for emotional distress;
- (D) Grant declaratory judgment declaring that Plaintiff's rights have been violated;

- (E) Grant Plaintiff's reasonable attorneys' fees and expenses of litigation;
- (F) Grant injunctive relief of reinstatement, or front pay in lieu thereof, and prohibiting Defendant from further unlawful conduct of the type described herein; and
- (G) Award Plaintiff such further and additional relief as may be just and appropriate.

This 25th day of May, 2023.

BARRETT & FARAHANY

/s/ V. Severin Roberts
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